

11 HPROF, LLC,

12 Plaintiff,

13 v.

14 SUSAN CAMERON, and ANTHONY
15 CAMERON

16 Defendant.

17 Case No. 13-0058 JSC

18 **ORDER TO SHOW CAUSE TO
DEFENDANTS**

19 Plaintiff brought this state law unlawful detainer action against Defendants in the Superior
20 Court of California for the County of Alameda. Defendants, representing themselves, subsequently
21 purported to remove the action to this Court on the basis of federal question jurisdiction. Defendants
22 allege that "Plaintiff has actually filed a Federal Question action in State Court." (Dkt. No. 1 a 2.)
23 In particular, they explain that the Protecting Tenants at Foreclosure Act of 2009 ("PTFA"), 12
24 U.S.C. § 5220, preempts state law as to bona fide residential tenants of foreclosed landlords. (*Id.*)

25 Defendants, as the party seeking removal to this federal court, bear the burden of establishing
26 that subject matter jurisdiction exists, and courts strictly construe the removal statute against removal
27 jurisdiction. *Gaus v. Miles, Inc.*, 980 F.2d 564, 566-67 (9th Cir. 1992). Further, when a case is
28 removed to federal court, the court has an independent obligation to satisfy itself that it has federal

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1 subject matter jurisdiction. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1116 (9th Cir. 2004). The
2 Court has reviewed the Notice of Removal and has determined that federal question jurisdiction does
3 not exist.

4 “Federal question jurisdiction exists only when a federal question exists on the face of a well-
5 pleaded complaint.” *ING Bank, FSB v. Pineda*, 2012 WL 2077311 *1 (N.D. Cal. June 8, 2012). The
6 removed complaint makes only a state law claim for unlawful detainer. Therefore, this Court does
7 not have federal question jurisdiction. *ING Bank, FSB*, 2012 WL 2077311 at *1. That Defendants
8 raise defenses and preemption arguments related to the PTFA is irrelevant; a defendant cannot create
9 federal subject matter jurisdiction by adding claims, raising defenses, or alleging ordinary
10 preemption. *Holmes Group, Inc. v. Vornado Air Circulation*, 535 U.S. 826, 830-31 (2002); *Valles v.*
11 *Ivy Hill Corp.*, 410 F.3d 1071, 1075 (9th Cir. 2005) (“A federal law defense to a state-law claim
12 does not confer jurisdiction on a federal court, even if the defense is that of federal preemption and is
13 anticipated in the plaintiff’s complaint.”); *Federal Nat. Mortg. Ass’n v. Sue Lin Poh*, 2012 WL
14 3727266, at *2 (N.D. Cal. Aug. 28, 2012) (remanding removed unlawful detainer action).

15 Accordingly, Defendants are ORDERED to SHOW CAUSE as to why this case should not
16 be remanded to the Alameda County Superior Court. In particular, if Defendants believe that this
17 Court has subject matter jurisdiction, they shall file a response in writing by **April 22, 2013** that
18 demonstrates why this Court has jurisdiction. Defendants are warned that their failure to file a
19 response will result in remand of this action to state court for lack of federal jurisdiction.

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21 **IT IS SO ORDERED.**

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23 Dated: April 8, 2013

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JACQUELINE SCOTT CORLEY
UNITED STATES MAGISTRATE JUDGE